

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

1	UNITED STATES OF AMERICA,)	No. 12 CR 872
2)	
3	Plaintiff,)	Chicago, Illinois
4)	November 19, 2012
5	-vs-)	10:30 o'clock a.m.
6)	
7	CHERRON MARIE PHILLIPS,)	
8	Defendant.)	

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HONORABLE MILTON I. SHADUR

APPEARANCES:

12	For the Plaintiff:	HON. GARY SHAPIRO
13		United States Attorney, by
14		MS. NANCY DePODESTA
15		Assistant United States Attorney
16		(219 S. Dearborn Street
17		Chicago, Illinois 60604)
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23	Court Reporter:	ROSEMARY SCARPELLI
24		219 South Dearborn Street
25		Room 2304A
		Chicago, Illinois 60604
		(312) 435-5815

1 THE CLERK: 12 CR 872, United States of America
2 versus Cherron Phillips.

3 THE DEFENDANT: May I cross the bar?

4 MS. DePODESTA: Good morning, your Honor, Nancy
5 DePodesta on behalf of the United States.

6 THE COURT: Oh, please come. That is the reason we
7 called the case.

8 MS. DePODESTA: Good morning, Nancy DePodesta on
9 behalf of the United States.

10 THE COURT: Do you want to identify yourself,
11 please, for the record.

12 THE DEFENDANT: For the record, I am a natural
13 being here by special appearance to take delivery of the
14 CUSIP bond and all the other Government bonds.

15 THE COURT: And?

16 MR. KOLBUS: Good morning, your Honor, Brian
17 Kolbus, Pretrial Services.

18 THE COURT: I received, by the way, your filing.
19 And I won't comment on it other than to say that it really
20 doesn't have any legal impact.

21 We are here, as you know, as a follow-up to your
22 original appearance. And I set it over until today to give
23 you the opportunity to determine whether you were going to
24 retain counsel or whether you wanted to represent yourself.
25 So tell me what the story is on that.

1 THE DEFENDANT: As I stated before, sir, my honor,
2 I am here by special appearance as a --

3 THE COURT: Now wait just a minute. Please just
4 respond to my question, if you would. Your concept of a
5 special appearance may or may not coincide with what the law
6 regards as a special appearance. You are here because of the
7 fact that an indictment has been returned against you. You
8 have a constitutional right to choose to be represented by
9 counsel. You have an equal constitutional right to choose to
10 represent yourself.

11 And my question of you is, have you decided which
12 of those two alternatives you would like to follow?

13 THE DEFENDANT: I conditionally accept your offer
14 to accept counsel upon delivery of the CUSIP bonds.

15 THE COURT: What is the CUSIP bond that you are
16 talking about?

17 THE DEFENDANT: You received the correspondence,
18 sir, correct?

19 THE COURT: I got the correspondence, but I am
20 still asking you the question. What is the CUSIP bond that
21 you are referring to?

22 Hello.

23 THE DEFENDANT: For the record, I conditionally
24 accept your offer to speak on counsel upon delivery of a
25 CUSIP bond.

1 THE COURT: What is the cusip bond that you are
2 referring to? I am not familiar with your reference, so I am
3 just asking for an explanation.

4 THE DEFENDANT: Committee on Uniform Securities
5 Identification Procedures.

6 THE COURT: And what does that have to do with this
7 indictment, if anything?

8 You know, you do not make the rules here, ma'am.
9 The rules are set up by Congress. The Court is obligated to
10 follow the rules that are set up by Congress. They are the
11 ones who proscribe legislation. Part of that is our Criminal
12 Code which permits people to be charged by the procedure of
13 going before a Grand Jury. That was done here. And an
14 indictment was returned against you.

15 So, again, you may like to think that you can
16 create the rules, but you cannot. And so don't give me the
17 business about conditional acceptance. I asked you a simple
18 question, which gets I trust a simple answer. You are
19 conversant with the English language, that is obvious. But
20 you persist in reframing matters to your own liking, but you
21 cannot do that in this system. Okay?

22 So let me try a third time. Have you decided
23 whether you are going to be retaining counsel because you had
24 refused, of course, the appointment of counsel the last time
25 and you had also refused the prospect of having someone act

1 as standby counsel to assist you. And of course I am not
2 compelling any of those things to be done because, as I say,
3 your constitutional right to represent yourself stands on the
4 same footing as your constitutional right to be represented
5 by counsel.

6 So I will try a third time. Have you decided
7 whether you wish to be represented by counsel or whether --
8 and not on your conditional acceptance. That simply does not
9 fly. Have you decided whether you want to pursue that option
10 or do you want to represent yourself?

11 THE DEFENDANT: For the record, my honor, I
12 conditionally accept your --

13 THE COURT: No, I am sorry, you cannot just repeat
14 that. And saying it three times doesn't make it so. It just
15 does not act. It is a nonresponse and it can't be accepted
16 in those terms. You cannot say, "I want to set the
17 conditions under which this is going to happen."

18 You have two constitutional rights and I have
19 explained them to you. Now on which side of that
20 constitutional boundary do you want to fly? Do you want to
21 represent yourself here or do you want to have counsel
22 retained because, as I say, you have declined the provision
23 of counsel? And you haven't qualified for that anyway
24 because you haven't provided the necessary information to
25 support the idea that you would be entitled to appointment of

1 counsel under the Criminal Justice Act. If you want that,
2 you have to fill out some forms to do that. But I can't
3 guess as to what those forms would provide.

4 Are you with me so far?

5 THE DEFENDANT: I -- again I am here to take
6 delivery of the CUSIP bond, sir.

7 THE COURT: That is meaningless, in candor. And so
8 you are not -- whatever the CUSIP bond is that you are
9 talking about, it is not going to be delivered to you. You
10 have got -- you have got to speak in terms that the law gives
11 cognizance to. And that is not one of them.

12 You know, counsel was extremely -- for the
13 Government was extremely cooperative last time in permitting
14 you to be released on bond. The bond that was provided was
15 what is called a bond to assure your presence in court. And
16 I went through the aspect of it that represented the terms
17 and conditions. That is the bond that the Court recognizes,
18 not your CUSIP bond, or whatever you may choose to label.
19 Now that is the condition on which you were permitted to be
20 released while this proceeding is going on because otherwise
21 you see the requirement would have been that you be taken
22 into custody and remain in custody because of the risks that
23 are created by the charged conduct. I am not making any
24 findings about them. But the risk of danger to the -- to the
25 community basically by reason of the conduct are the concern

1 that the Court had.

2 But I was perfectly willing to alleviate that
3 because of the fact that you had reached an understanding, as
4 I -- was reported to me, that you would be released on the
5 terms that were set up in the release order. That has been
6 done. And I have no problem with that continuing. But you
7 can't create a stalemate by standing here and repeating
8 meaningless language, legally meaningless language, again and
9 again and again.

10 You know, as between the two of us I think that I
11 have basically the responsibility and the power to deal with
12 this action. You do not have the power to deal with the
13 thing on your own terms. That is not permitted. And so you
14 are not going to find any success in continuing to repeat the
15 pat formula that you have somehow devised or have thought
16 about as perhaps being significant. It is not. It has no
17 meaning at all in legal terms.

18 So do you want to create a stalemate, is that what
19 you are trying to do? I am not going to stand for that. So
20 let's go. What is it? Which way do you choose?

21 Yes?

22 THE DEFENDANT: To -- I am sorry?

23 THE COURT: I am waiting.

24 THE DEFENDANT: Again, sir, I conditionally accept
25 your offer; however, I am here by special appearance to take

1 delivery of the CUSIP bond and all other Government bonds for
2 the statutory case of 12 CR 872.

3 THE COURT: Well, I will not accept your -- what
4 you characterize as your conditional offer. Let me remind
5 you that the last time you were here you did acknowledge
6 receipt of a copy of the indictment, right, this document, 12
7 CR 872? You did confirm that you had received a copy, right?

8 THE DEFENDANT: I conditionally accept your offer,
9 sir.

10 THE COURT: Don't give me the conditional
11 acceptance. Give me a yes or a no to that question. You
12 know, you think that you can play the system. Let me give
13 you a lesson, and that is you may not. And the worst part of
14 it is that you see all the provisions that the law would
15 otherwise make available to you, you essentially frustrate by
16 the continued repetition of a meaningless formulation. I
17 don't know where you got it, but I -- in candor I don't care
18 because it is not -- have -- it does not have any legal
19 significance at all. The Court is not required to recognize
20 it. The Court is not required to treat your so-called
21 conditional acceptance as having any meaning at all.

22 And so let me try again. You know, last time -- it
23 is interesting because before you got this bug in your head
24 that has compelled you to keep repeating this thing, you were
25 at least reasonable enough to say, yes, you had received a

1 copy of the indictment. Are you taking that back? Is that
2 what you are saying?

3 I don't understand that. You can't do that. That
4 is on the record. You have talked about "for the record."
5 You have acknowledged receipt of a copy of the indictment.
6 Is that not so? You think you are being trapped somehow?
7 You don't recognize -- you don't recognize good efforts when
8 you hear them. You know, that is your problem. The law
9 stands ready to provide you with the requisite rights and
10 benefits, but you essentially frustrate that by your
11 continued repetition. And somehow that lesson does not seem
12 to have gotten over to you, although you would otherwise seem
13 to be perhaps a rational human being.

14 So I am trying again. If you are -- are you saying
15 that you did not receive a copy of the indictment? Is that
16 what you are now telling me? Is that what you are saying?

17 I don't hear you. Yes? What?

18 You think you are going to win this discussion by
19 standing mute. You are not. So let me try again. Are you
20 saying that you did not receive a copy of the indictment?
21 You acknowledged that you did the last time, right?

22 THE DEFENDANT: Sir, conditionally accept your
23 offer to discuss the matter. However, I am here by special
24 appearance to take delivery as a natural being of the CUSIP
25 bond and all other Government bonds attached to the statutory

1 case of 12 CR 872.

2 THE COURT: Ma'am, I don't suppose you ever read
3 the New Yorker magazine, or do you on occasion? Did you ever
4 have occasion to read the New Yorker magazine?

5 Don't tell me on condition. That is one that you
6 ought to feel free to answer. It has nothing to do with our
7 criminal case, right?

8 Yes? What?

9 Well, there is no point in this. Sandy, would you
10 hand this to Ms. Phillips, please.

11 Ms. Phillips --

12 THE DEFENDANT: No, thank you.

13 THE COURT: -- we just delivered to you a copy of
14 the indictment in this case. Are you prepared to waive
15 formal reading, that is, are you prepared to say that the
16 indictment doesn't have to be read to you?

17 THE DEFENDANT: For the record --

18 THE COURT: Why don't you get a phonograph record,
19 put a needle on it, and just have that repeated instead of
20 your wasting your time repeating yourself. It was
21 meaningless the first time. It has been meaningless each
22 time since. It continues to be meaningless. And if you
23 don't respond, then things will have to be done to you rather
24 than for you. So?

25 All right. Since you are not prepared to

1 acknowledge the waiver of reading of the indictment, I will
2 read it to you. It says, "The SPECIAL JANUARY 2012 GRAND
3 JURY charges that: Counts 1-12. On or about the dates set
4 forth below, at Chicago, within the Northern District of
5 Illinois, Eastern Division, the defendant, CHERRON MARIE
6 PHILLIPS, also known as "Cherron Phillips El," "River Tali El
7 Bey," "River Tali Bey," "River Tali" and "River," while
8 aiding and abetting and while being aided and abetted by
9 other persons both known and unknown to the Grand Jury, did
10 file, and attempt to file, in the public record of the Cook
11 County Recorder of Deeds, a false lien and encumbrance
12 against the real and personal property of the persons listed
13 below, all of whom were then employees and officers of the
14 United States Government:"

15 Count 1, March 14, 2011 against person designated
16 as V1 who had the official title chief United States District
17 Judge.

18 In Count 2, also March 14, 2011, against a person
19 referred to as V2, with the official title of United States
20 District Judge.

21 On Count 3, also March 14, 2011, against a person
22 referred to as V3, United States Attorney.

23 Count 4, also March 14, 2011, a person designated
24 as V-4, Assistant United States Attorney.

25 Count 5, also March 14, 2011, a person known as V5,

1 United States District Court Clerk.

2 Count 6, March 17, 2011, a person known as --
3 referred to as V6, officially a Federal Task Force Officer.

4 Count 7, also March 17, 2011, a person referred to
5 as V7, also a Federal Task Force Officer.

6 Count 8, also March 17, 2011, a person referred to
7 as V8, also a Federal Task Force Officer.

8 Count 9, also March 17, 2011, a person referred to
9 as V9, also a Federal Task Force Officer.

10 Count 10, April 13th, 2011, a person referred to as
11 V10, a Federal Agent.

12 Count 11, April 19, 2011, a person known as --
13 referred to as V11, a United States Magistrate Judge.

14 And then finally Count 12, also April 19, 2011, a
15 person referred to as V12, United States Magistrate Judge as
16 the official title.

17 Going on, "The defendant filed the false liens and
18 encumbrances against each listed persons on account of the
19 performance of their official duties, knowing and having
20 reason to know that each lien and encumbrance was false and
21 contained a materially false, fictitious, and fraudulent
22 statement and representation, including a false claim that
23 the listed persons each owed the defendant's brother one
24 hundred billion dollars. In violation of Title 18, United
25 States Code, Sections 1521 and 2. A TRUE BILL:" signed by

1 the Foreperson of the Grand Jury and with signatures below
2 that, attorney -- Eric Holder, Jr., Attorney General of the
3 United States, by Stephen R. Wigginton, United States
4 Attorney for the Southern District of Illinois, and Nathan D.
5 Stump, Special Assistant United States Attorney.

6 Now how do you plead to the charges that are
7 involved here, guilty or not guilty?

8 THE DEFENDANT: I conditionally accept your offer
9 to plea upon -- upon delivery of the CUSIP bond.

10 THE COURT: So you are saying that you are not
11 going to plead now, is that what you are telling me?

12 You said that you would accept it on condition,
13 which I have said is a condition that the Court is not going
14 to satisfy because it is a meaningless condition. So does
15 that tell me that you are not pleading either guilty or not
16 guilty at this time, is that right?

17 THE DEFENDANT: For the record, my honor, as a
18 natural being here by special appearance I conditionally
19 accept your offer upon proof of delivery of the CUSIP bond
20 and all other Government bonds for statutory case --

21 THE COURT: Well, I will translate -- I will
22 translate that. That one is capable of being translated into
23 a response. Your response is that you are not now pleading
24 either guilty or not guilty, and accordingly a not guilty
25 plea will be entered on your behalf.

1 Wait just a moment. Now let me turn to the United
2 States Attorney for a moment. What is involved in terms of
3 Local Criminal Rule 16.1 in terms of production of materials
4 to the defendant?

5 MS. DePODESTA: I believe that we could have
6 Rule 16 materials provided by a week from today.

7 THE COURT: I am sorry?

8 MS. DePODESTA: I think we can have Rule 16
9 materials provided to Miss Phillips by a week from today.

10 THE COURT: All right. I will provide that the
11 Government is to comply with Local Criminal Rule 16.1.
12 Remember you have got a holiday involved. Is that going to
13 create a problem?

14 MS. DePODESTA: I think we are okay.

15 I think we are good.

16 THE COURT: Okay.

17 MS. DePODESTA: But thank you for asking.

18 THE COURT: All right. I will provide that that is
19 to be done by November 26. And under ordinary circumstances
20 I would set a time for Ms. Phillips to determine whether any
21 motions are to be filed, but these are not ordinary
22 circumstances because we have someone who is totally
23 recalcitrant, and as a result what I will do instead is to
24 set a next status date. And that status date we will make
25 for two weeks from today, if that is satisfactory. That

1 would be December 3rd. And I will do that at 10:00 o'clock.

2 Is that acceptable?

3 MS. DePODESTA: That is fine with the Government,
4 your Honor.

5 THE COURT: You will be here then at 10:00 o'clock
6 on Monday, December 3rd.

7 Sandy, was Ms. Phillips delivered a copy of the
8 release order? I think the answer is yes.

9 THE CLERK: Yes.

10 THE COURT: Miss Phillips, if you will take a look
11 at the release order that you were provided last time that
12 you were here, one of the provisions is that you have to
13 appear of course at any time that the Court sets for your
14 appearance. That is one of the conditions of your release.
15 So that you will be here, if you would, at 10:00 a.m. on
16 December 3rd. And by -- you will have been provided in the
17 meantime by the Government with the -- whatever papers are
18 required to be provided under our Local Criminal Rule 16.1
19 which is what defines what the Government must provide to any
20 criminal defendant. All right?

21 I think that I -- yes?

22 MS. DePODESTA: Your Honor, just two brief issues.
23 One, I will make a motion to -- for the exclusion time in
24 light of the interest of justice here and, as you mentioned,
25 sort of --

1 THE COURT: Yes, the entire period beginning today
2 and ending December 3rd -- yeah -- which is a period of
3 15 days inclusive is excludable under 18 U.S.C. Section
4 3161(h)(7)(a) and (b)(4).

5 Thank you.

6 MS. DePODESTA: One other brief matter.

7 THE COURT: Yes?

8 MS. DePODESTA: While I understand that Miss
9 Phillips in some regards has been compliant with Pretrial,
10 there are some forms for Pretrial that she needs to sign and
11 complete. That is part -- sort of an assumption that went
12 with her being released on bond. And we would just ask that
13 prior to December 3rd that paperwork get completed.

14 THE COURT: What documents are required?

15 MR. KOLBUS: Good morning, your Honor, Brian
16 Kolbus, Pretrial Services. The statement the Assistant
17 United States Attorney made is correct. Miss Phillips has
18 generally complied with the electronic monitoring and the
19 scheduling conditions as we have laid out for her. As we
20 explained in our post-release interview to her, the
21 instructions that we must give her and the restrictions that
22 she has. She has acknowledged that we have gone over those,
23 but she has not signed the papers that agreed to the home
24 confinement agreement, that she has no bombs in her home,
25 that she has no passport, to agree to her schedule, other

1 things of that nature. Miss Phillips has declined to sign at
2 this point. We did ask if she brought them to court as she
3 had agreed to us that she would. Before court I was not able
4 to get an answer to that question.

5 THE COURT: Ms. Phillips, that is, as I understand
6 it, a documentary, a written, confirmation of the things that
7 have in fact been provided to you. Is there any problem with
8 your signing those? You know, that is a condition of your
9 release, you understand. I mean you certainly don't want to
10 frustrate that I would think.

11 Why would you want, for example, for your release
12 to be revoked if you chose not to sign documents of the kind
13 that the Pretrial Services Officer had called for? You are
14 not telling me that, are you? Or are you? Do you understand
15 that question? And don't give me a conditional answer. Do
16 you understand the question that I just posed to you,
17 because, look, you are released on condition. That one was
18 conditional.

19 One of the conditions was that you comply with the
20 provisions that are set up, the formal provisions. And all
21 that is involved there is the confirmation because their
22 records require that it be done in writing. Now you -- of
23 course you do have a choice. Your choice is to say, "I am
24 not going to do it," or your choice is to give me the same
25 conditional response business. And in that case you see my

1 obligation is to -- would be to take you into custody, which
2 I don't want to do because we had agreed on the conditions
3 that would satisfy your release. But you have got to live by
4 those conditions.

5 You understand that? Or are you telling me that
6 you want to be taken into custody? Is that what you are
7 saying, or not saying?

8 Well?

9 You are -- are you telling me you are not signing
10 those things? Is that what you are doing or are you not
11 prepared to sign them? Because, you know, then I -- then I
12 regret that the conditions of release, which are to comply
13 with the provisions that are set up by the -- along with the
14 Pretrial Services Office that is here to help you, not to
15 harm you -- that I can't permit you to essentially to make
16 the rules your way. Do you understand that?

17 This one I am not going to wait very long on. I
18 have been very patient about everything else, but you cannot
19 set the standards yourself and expect to continue to flout
20 the system. Do you know what the word "flout" means? I will
21 give you 30 seconds to respond to my question.

22 THE DEFENDANT: For the record, my honor --

23 THE COURT: That is "your Honor." That is what you
24 have got to say. Not "my honor." But go ahead. I didn't
25 mean to interrupt you, but you misspoke.

1 What are you going to say? Time is running.

2 Is there a Marshal here?

3 THE MARSHAL: Yes, your Honor.

4 THE COURT: Would you step up, please.

5 THE DEFENDANT: For the record, my honor, you said
6 December 3rd would be the date?

7 THE COURT: That's correct.

8 THE DEFENDANT: Okay.

9 THE COURT: That is not the subject we are talking
10 about now. We are talking about the fact that according to
11 the Pretrial Services Officer you didn't comply with one of
12 the conditions of release, which is that the confirmation
13 that you have agreed to in connection with the standards --
14 and nobody is quarreling with that -- but that you are not
15 prepared to sign the paper that says that you agree to, which
16 is one of the conditions.

17 Now, I didn't set that rule. But, you know, you
18 can't make the rules yourself. And what you are just
19 demonstrating to me is that you are not living by the terms
20 of release, and accordingly that -- what that means is that
21 your release would have to be revoked. And that means you
22 would have to be taken into custody.

23 Now I don't want to do that, but, you know,
24 stubbornness on your part doesn't assist you when the system
25 is here to try to assist you and you wouldn't recognize that.

1 But if that is what you want, that is what you are going to
2 get. Do you understand that?

3 All right.

4 THE DEFENDANT: I do not have the papers.

5 I do not have those papers.

6 THE COURT: Do you have those with you?

7 MR. KOLBUS: Your Honor, Brian Kolbus, Pretrial
8 Services. When I visited Miss Phillips' home, I gave her the
9 papers and went over them with her and she agreed to bring
10 them back here today signed after speaking with her attorney.

11 THE DEFENDANT: They are just not in my presence.
12 I have to get them.

13 THE COURT: Do you have them at your home?

14 THE DEFENDANT: I have -- Brian gave them to me.

15 THE COURT: Do you have them?

16 THE DEFENDANT: They are not in my presence.

17 THE COURT: I understand that. Are they back at
18 your home, is that what you are saying?

19 THE DEFENDANT: I have them. They are not in my
20 presence. I can have -- I can get access to them and make an
21 appointment to meet with Brian.

22 THE COURT: All right. I will give you -- I will
23 give you until -- when would you be available for that?

24 MR. KOLBUS: I am out of the office tomorrow, your
25 Honor. Wednesday I will be here. We can make an appointment

1 for Wednesday morning first thing.

2 THE COURT: I will give you until Wednesday
3 morning, the 21st, to provide those documents to the Pretrial
4 Services Officer. Failing that I can promise you that you
5 will be taken into custody because you will have violated
6 conditions of release. You cannot do that. You cannot make
7 the rules for yourself. So --

8 MR. KOLBUS: Your Honor, could we ask for a
9 deadline of maybe 10:00 a.m. to make sure they are here and
10 we can report to the Court.

11 THE COURT: You will bring those to him by 10:00
12 o'clock Wednesday morning, November 21st. And I am going to
13 ask that the Marshals be available at that point because if
14 you do not comply, the conditions of release will have been
15 violated as I read them to you. If you violate the
16 conditions of release, you may be taken into custody. And
17 you will. Do you understand?

18 Thank you.

19 THE DEFENDANT: At that time, sir, will I be able
20 to take delivery of the CUSIP bond?

21 THE COURT: No, there is no such thing. Don't
22 start making conditions because this is one you are not going
23 to win. Do you understand that?

24 Somehow you don't seem to understand the way in
25 which these rules operate. You cannot win by setting up

1 meaningless standards of your choice that will govern the
2 system. On the contrary, the system is not going to be
3 subordinate to your desires. So you are going to be here by
4 10:00 o'clock Wednesday morning, November 21st, bringing the
5 documents to the Court Pretrial Services Officer in signed
6 form. And failing that you will be taken into custody
7 because you will have violated the conditions of release.

8 And we are through for the morning. Thank you.

9 MS. DePODESTA: Thank you, your Honor.

10 MR. KOLBUS: Thank you, your Honor.

11 (Which were all the proceedings heard.)

12 CERTIFICATE

13 I certify that the foregoing is a correct transcript
14 from the record of proceedings in the above-entitled matter.

15
16 s/Rosemary Scarpelli/

Date: November 20, 2012

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